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*Attorneys for the Plaintiffs*

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK**

ANDREW CLARKE and TAPAS SARKAR,  
individually and on behalf of other similarly  
situated persons,

Plaintiffs,

v.

J.P. MORGAN CHASE & CO.,

Defendants

**DECLARATION OF EVE H.  
CERVANTEZ IN SUPPORT OF  
MOTION FOR CONSOLIDATION  
AND APPOINTMENT OF OUTTEN  
& GOLDEN, LIEFF CABRASER,  
AND ALTSHULER BERZON AS  
CO-LEAD INTERIM CLASS  
COUNSEL PURSUANT TO  
FEDERAL RULES OF CIVIL  
PROCEDURE 23(G) AND 42(A)**

I, EVE H. CERVANTEZ, DECLARE:

1. I am a partner at Altshuler Berzon LLP, counsel for plaintiffs in the above-captioned case. I make this statement of my own personal knowledge, and if called to testify, could and would testify competently thereto.
2. In preparation for this litigation, I, and Altshuler Berzon paralegals working under my supervision, spoke to approximately ten current and former Chase technical support workers about their job duties and number of hours worked, in an effort to determine if these workers were properly classified as exempt from overtime, and the approximate number of overtime hours worked. My firm has already committed the time and efforts of two attorneys and several paralegals to the legal research, factual investigation, and prosecution of this lawsuit, and will continue to do so, keeping in mind appropriate staffing levels for each project.
3. I have litigated numerous wage and hour class action lawsuits, both as a partner at Altshuler Berzon and earlier as a partner at Lieff, Cabraser, Heimann, & Bernstein, LLP, including *Aguiar v. Cintas Corporation*, (L.A. Superior Court Case No. BC 310696), *Baldozier et al. v. American Family Mutual Insurance Company* (D. Colo. Case No. 04-cv-2174 WYD-CBS); *In Re: Farmers Insurance Exchange Claims Representatives' Overtime Pay Litigation* (D. Or. MDL Case No. 1439); *Barnett et al. v. Wal-Mart Stores, Inc.* (King County, Wash., Superior Court Case No. 01-2-24553-8 KNT); *Rundles et al. v. Safeco Corporation* (Orange County Superior Court Case No. 02CC01600); *Zuckman v. Allied Group, Inc.* (N.D. Cal. Case No. 02-cv-05800 SI); *Rosenburg v. International Business Machines Corp.* (N.D. Cal. Case No. 06-cv-0430 PJH); and *Thomas, et al. v. California State Automobile Association* (Alameda County Superior Court Case No. CH217752-0).
4. I frequently lecture about wage and hour issues. In 2007 alone, I spoke on wage and hour issues at the ACI Institute conference on wage and hour law, the Consumer Attorneys of

California annual convention, the California Employment Lawyers Association (CELA) annual wage and hour conference, the National Employment Lawyers Association (NELA) fall seminar on Representing Workers In Individual and Collective Actions Under the FLSA, and at a CLE class presented by Bridgeport Corporation.

5. I also write about wage and hour issues on a regular basis. I am a chapter contributor to *Wage and Hour Laws, A State-by-State Survey* (BNA, 2006 Supplement), *The Fair Labor Standards Act* (BNA, 2006 Supplement), and the ABA FLSA Subcommittee Midwinter Report. Articles include “When Should You Bring State Law Wage and Hour Claims in Addition to, or Instead of, FLSA Claims,” published in *The Employee Advocate* (Summer/Fall 2003) and “Avoiding Procedural Pitfalls” for the fall 2007 NELA FLSA seminar.

6. My partner, James M. Finberg, is also actively working on this case. Since 2005, he has been listed by *Best Lawyers in America* as one of the best lawyers in America in the field of securities law and employment law. In 2006, he was selected by *The Daily Journal* as one of the Top 100 lawyers in California. He is a fellow of the American College of Labor and Employment Lawyers. Since 2004, he has been designated by *San Francisco Magazine* as a Northern California “Super Lawyer,” including being listed as one of the top 100 attorneys in Northern California since 2005. In 2003, he was selected by *The Recorder* legal newspaper (based on a survey of judges, arbitrators, mediators, and lawyers in the field) as the top plaintiff’s securities litigator in the San Francisco Bay Area. In 2004, he was selected by *The Recorder* legal newspaper as one of the top plaintiff’s employment litigators in the San Francisco Bay Area. In 2005, he was selected by *The Los Angeles Daily Journal* as one of the “Top 30 Securities Litigators in California.”

8. In 2005, he served as the President of the Bar Association of San Francisco. From 2000-2001, he served as Co-Chair of the delegation of Lawyer Representatives from the Northern

District of California to the Ninth Circuit Judicial Conference. From 1997-1998, he served as co-chair of the Lawyers' Committee for Civil Rights of the San Francisco Bay Area, and now serves on its board.

9. He is a co-author of "Statistical and Other Expert Proof," in *Employment Discrimination Law* (4th ed., Lindemann and Grossman). He also edited the 2000 and 2002 Cumulative Supplements to Chapter 39, "Statistical Proof," of that treatise (3d ed.). He has been a contributor to *Wage and Hour Laws: A State-by-State Survey* (BNA, 2004) and to *Fair Labor Standards Act: 2004 Cumulative Supplement* (BNA, 2004).

10. He is author or co-author of the following articles, among others: Co-Author with Peder J. Thoreen, "The Use of Representative Testimony and Bifurcation of Liability and Damages in FLSA Collective Actions (ABA 2007); Co-Author with Peter E. Leckman, "Holding Customers Who Assist Securities Fraud Accountable Under State Law," *Securities Litigation Report* (Vol. 3, No. 5, May 2006); "Fair Labor Standards Act and State Law Wage & Hour Claims," ABA Annual Meeting 2006; Author, "State Law Wage/Hour Class Actions: Alive And Well In Federal Court," *ABA Labor and Employment Section* (2005); Co-Author with Melissa Matheny, "A Developing Consensus: The PSLRA's 'Basis' Requirement Does Not Require the Disclosure of Confidential Sources in a Complaint," *Securities Litigation Report* (Vol. 2, No. 1, July/August 2005) (Glasser Legal Works). Co-Author with Chimène I. Keitner, "New Overtime Regulations Require Heightened Vigilance," *San Francisco Attorney Magazine*, Spring 2004; Co-Author with Chimène I. Keitner, "Summary of Proposed DOL Regulations Re FLSA Overtime Exemptions" (2003) (American Bar Association – Labor and Employment Law, Federal Labor Standards Legislation Committee Annual Report); "Title VII's Remedial Scheme: Employment Discrimination Class Actions at the Crossroads," *San Francisco Attorney* (August/September 2002); "Certification of Employment Discrimination Actions After The Passage of the 1991

Civil Rights Act: (b)(2) or Not (b)(2), That Is The Question," *Class Actions & Derivative Suits*, Vol. 10 (March 2000); Co-Author with Joshua P. Davis, "Allison v. Citgo Petroleum Corp.- A Noble Retreat," *Class Actions & Derivative Suits*, Vol. 9, No. 1 (Winter 1999); Co-Author with Kelly Dermody, "Discovery in Employment Discrimination Class Actions," in *Litigation and Settlement of Complex Class Actions* (Glasser Legal Works 1998); Co-Author with Melanie M. Piech, "The Impact of the Private Securities Litigation Reform Act: Unintended Consequences," *Securities Reform Act Litigation Reporter*, Vol. 6, No. 3 (Dec. 1998); Co-Author with Karen Jo Koonan, "The Importance of Anecdotal Testimony to the Jury Trial of a Title VII Class Action: Lessons from *Butler v. Home Depot*," *Class Actions & Derivative Suits*, Vol. 8, No. 3 (Summer 1998); "Northern District of California Requires Internet Posting of Pleadings And Key Briefs In Securities Actions," "Securities Reform Act Litigation Reporter" (1997); "Class Actions: Useful Devices That Promote Judicial Economy And Provide Access to Justice," 41 *New York Law School Law Review* 353 (1997); Co-Author (with Melvin R. Goldman), "Deposing Expert Witnesses" in *Taking Depositions* (ABA) (1989); Co-Author (with George C. Weickhardt), "New Push For Chemical Weapons," *Bulletin of the Atomic Scientist* (Nov. 1986); Comment, "The General Mining Law and The Doctrine of Pedis Possessio: The Case For Congressional Action," 49 *University of Chicago Law Review* 1027 (1982).

11. He has served as counsel in numerous wage and hour class actions, such as: *Rosenburg v. Int'l Bus. Machines Corp.*, No. CV 06-00430 PJH (N.D. Cal.) (\$65 million settlement of wage and hour class and collective action in 2007); *Giannetto v. CSC Corp.*, No. CV 03-8201 (C.D. Cal.) (\$24 million settlement of wage/hour case in 2005); *Gerlach v. Wells Fargo & Co.*, No. 05-00585 CW (N.D. Cal.) (\$12.8 million settlement of wage and hour class and collective action in 2007); *Trotter v. Perdue Farms*, Case No. 99 893 (RRM) (U.S.D.C. Del.) (\$10 million settlement in wage and hour case in 2002); *Thomas v. CSAA*, No. CH217752 (Alameda County

Sup. Ct.) (\$8 million settlement of insurance claim adjuster overtime case in 2002).

12. He has also served as the lead, or co-lead, attorney representing the plaintiff class in dozens of non-wage and hour class actions, including: *Satchell v. Federal Express Corp.*, C03-2659 SI; C03-2878 SI (N.D. Cal.) (settlement of \$55 million, plus comprehensive injunctive relief, of race and national origin discrimination claims in 2007); *Butler v. Home Depot*, No. C94 4335 SI (settlement of \$87.5 million, plus comprehensive injunctive relief, in gender discrimination case in 1998); *Frank v. United Airlines*, No. C92 0692 MJJ (N.D. Cal.) (\$36.5 million gender discrimination settlement in 2004); *Gottlieb, et al v. SBC Communications, et al.*, No. CV-00-4139 AHM (C.D.Cal.) (\$10 million ERISA settlement in 2002); *Buttram v. UPS*, No. 97-1590 MJJ (N.D. Cal.) (\$12.2 million settlement, plus comprehensive injunctive relief, of race discrimination action, in 1999); *Church v. Consolidated Freightways, Inc.*, 1993 WL149840 (N.D. Cal.) (\$13.5 million settlement in age discrimination case in 1993); *In re California Micro Devices Securities Litigation*, C 94 2817 VRW (N.D. Cal.) (\$26 million in settlements -- approximately 100% of losses); *In re Network Associates, Inc. Securities Litigation*, C 99 1729 WHA (N.D. Cal.) (\$30 million settlement in 2001); *In re Mediavision Technology Securities Litigation*, C 94 1015 EFL (N.D. Cal.) (settlements and judgments totaling \$218 million).

I declare under penalty of perjury under the laws of the United States that the forgoing is true and correct.

April 17, 2008

By:

Eve H. Cervantez

